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FEDERAL ELECTION COMMISSION

999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

AUDIT REFERRAL: 04-07
DATE REFERRED: September 23, 2004
DATE ACTIVATED: March 3, 2005

STATUTE OF LIMITATIONS: March 8, 2007¹

SOURCE: AUDIT REFERRAL

RESPONDENTS: Democratic Party of Hawaii
Yuriko Sugimura, in her official capacity as treasurer

**RELEVANT STATUTES
AND REGULATIONS:**

2 U.S.C. § 434(b)(4)(H)(v)
2 U.S.C. § 439a
2 U.S.C. § 441a(a)(1)(C)
2 U.S.C. § 441a(a)(2)(C)
2 U.S.C. § 441a(f)
2 U.S.C. § 441b(a)
11 C.F.R. § 103.3(b)
11 C.F.R. § 104.10(b)(4)
11 C.F.R. § 106.5(d)(1) and (2)
11 C.F.R. § 106.5(g)(1)(i) and (ii)(A)

INTERNAL REPORTS CHECKED: Audit Documents
Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

This matter was generated by a Commission audit of the Democratic Party of Hawaii ("DPH") covering the period January 1, 2001 through December 31, 2002, pursuant to 2 U.S.C. § 438(b) of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Commission

¹ This statute of limitations date is based on the date of the earliest excessive contribution check received by the Democratic Party of Hawaii.

1 approved the Report of the Audit Division on the DPH ("Audit Report") on September 14, 2004.²
2 Attachment 1 at 1. On September 23, 2004, three of the six findings in the Audit Report (Findings
3 1, 2 and 4) were referred to this Office for enforcement. Based on the information set forth in the
4 Audit Report, this Office recommends that the Commission make reason to believe findings as
5 follows:

- 6 • The DPH knowingly accepted contributions from the non-federal accounts of two
7 labor organizations totaling \$30,000 and deposited these contributions into its
8 federal account, in violation of 2 U.S.C. § 441b(a).³ See Attachment 1 at 8-9.
9
- 10 • The DPH knowingly accepted six contributions totaling \$36,000⁴ in excess of the
11 limitations of the Act, in violation of 2 U.S.C. § 441a(f).⁵ See Attachment 1 at 9-11.
12
- 13 • The DPH failed to report 52 disbursements for allocable expenses totaling \$155,125,
14 in violation of 2 U.S.C. § 434(b)(4)(H)(v) and 11 C.F.R. § 104.10(b)(4).⁶ See
15 Attachment 1 at 12-14.
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² The facts relevant to this matter occurred both prior to and after the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, the activity prior to BCRA is subject to the provisions of the Act as it existed at that time and the activity after BCRA is subject to the Act as amended by BCRA. However, only three minor events occurred after the effective date of BCRA: the DPH made three allocable disbursements totaling \$2,688, one on November 22, 2002 and two on December 13, 2002.

³ The two organizations were not identified in the Audit Report, but were identified in the Audit staff's work papers. They are the International Brotherhood of Electrical Workers Educational Committee ("IBEW"), which made a \$25,000 non-federal contribution and American Maritime Officers, which made a \$5,000 contribution.

⁴ The Audit Report addresses eight excessive contributions totaling \$46,000. The \$36,000 amount is \$10,000 less than the amount mentioned in the Audit Report. We are not including the contributions from two federal candidate committees (Daniel K. Inouye for U.S. Senate and Abercrombie for Congress) totaling \$10,000 in excessive contributions. Rather, pursuant to 2 U.S.C. § 439a, those two contributions are being treated as transfers of excess campaign funds. Both contributions were refunded by the DPH in response to a Request For Additional Information from the Commission's Reports Analysis Division prior to the audit.

⁵ The six contributors, who were not identified by name in the Audit Report are: Colin Veitch (\$10,000 excessive), James Kometani (\$10,000 excessive), Young Yong Lee (\$5,000 excessive), Ae Kyung Lee (\$1,000 excessive), Anthony Garner (\$5,000 excessive), and Bank of Hawaii/Pacific Century Financial Corporation's Special Political Education Committee ("SPEC") (\$5,000 excessive)

⁶ The \$155,125 amount is \$9,515 less than the \$164,640 stated in the Audit Report, because two disbursements were included from 2003, beyond the audit period

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1 **II. ADDITIONAL RESPONDENTS**⁷

2 This Office also recommends that the Commission make reason to believe findings against
3 two contributors as follows:

- 4 • Colin Veitch made two contributions totaling \$15,000 to the DPH that were \$10,000
5 in excess of the contribution limits of the Act, in violation of 2 U.S.C.
6 § 441a(a)(1)(C). See Attachment 1 at 9-11.
- 7 • James Kometani made two contributions totaling \$15,000 to the DPH that were
8 \$10,000 in excess of the contribution limits of the Act, in violation of 2 U.S.C.
9 § 441a(a)(1)(C). See Attachment 1 at 9-11.

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12 **III.**

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⁷ This Office is not recommending that the Commission make reason to believe findings against the two labor organization contributors because the DPH acknowledged that the contributions were deposited in error. In fact, the Audit staff's work papers show that the letter accompanying the IBEW's \$25,000 contribution specified that it was a non-federal contribution. Similarly, American Maritime Officers made two separate \$5,000 contributions to the DPH simultaneously—one through its separate segregated fund, American Maritime Officers Voluntary Political Action Fund, by check dated September 18, 2002, and the \$5,000 American Maritime Officers contribution at issue, also by check dated September 18, 2002. According to the Audit staff's work papers, the American Maritime Officers Voluntary Political Action Fund \$5,000 contribution check was deposited to the DPH's federal account on September 26, 2002. The American Maritime Officers' contribution check at issue was deposited to the DPH's federal account on October 17, 2002. Both checks were made out to the DPH for its "Coordinated Campaign," an apparent non-federal/federal fundraising campaign.

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We are not recommending that the Commission seek civil penalties from contributors Kometani and Veitch because it is unclear that their facially excessive contributions were meant for the DPH's federal account. Notably, both contributors made separate permissible \$5,000 contributions to the DPH prior to their respective \$10,000 contributions. The Audit staff represents that the DPH had a general policy of depositing contributions from individuals to the federal account. It is likely that these contributors may not have known that they were exceeding the contribution limits, because they may have intended that their respective \$10,000 contributions go to the DPH's non-federal account. Therefore, we recommend that the Commission take no further action against these two contributors, but issue an admonishment letter as to each of them.

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IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that the Democratic Party of Hawaii and Yuriko Sugimura, in her official capacity as treasurer, violated 2 U.S.C. § 441b(a).
3. Find reason to believe that the Democratic Party of Hawaii and Yuriko Sugimura, in her official capacity as treasurer, violated 2 U.S.C. § 441a(f).
4. Find reason to believe that the Democratic Party of Hawaii and Yuriko Sugimura, in her official capacity as treasurer, violated 2 U.S.C. § 434(b)(4)(H)(v) and 11 C.F.R. § 104.10(b)(4).
5. Find reason to believe that Colin Veitch violated 2 U.S.C. § 441a(a)(1)(C), but take no further action and send an admonishment letter.
6. Find reason to believe that James Kometani violated 2 U.S.C. § 441a(a)(1)(C), but take no further action and send an admonishment letter.
7. Approve as Factual and Legal Analyses the Report of the Audit Division on the Democratic Party of Hawaii, approved on September 14, 2004.
- 8.
9. Approve the appropriate letters.

Lawrence H. Norton
General Counsel

5/11/05
Date

BY: Cynthia E. Tompkins
Cynthia E. Tompkins
Assistant General Counsel

Kamau Philbert
Kamau Philbert
Attorney

Attachments:

1. Report of the Audit Division on the Democratic Party of Hawaii
- 2.